

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009CH1121
	HUD NO.: 05-09-0056-8
<b>PEDRO DONALDSON AND</b> )	ALS NO.: 09-0233
<b>ERIKO DONALDSON,</b> )	
Petitioners. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen, presiding, upon the Petitioner's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009CH1121, Pedro Donaldson and Eriko Donaldson, ("Petitioners"); and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioners' Request and supporting materials, and the Respondent's response to the Petitioners' Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioners' charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioners filed a charge of discrimination with the Respondent on October 15, 2008. The Petitioners alleged that Peter Popovic and 5746 N. Sheridan, LLC (sometimes collectively referred to as the "Landlords") subjected them to discriminatory terms, conditions, privileges, or services and facilities because of Pedro Donaldson's race, Black (Counts A and D), and Eriko Donaldson's race, Asian (Counts B and E), and Eriko Donaldson's mental disability, schizophrenia (Counts C and F), in violation of Sections 3-102(B) and 3-102.1(B) of the Illinois Human Rights Act ( the "Act").
2. On April 6, 2009, the Respondent dismissed the Petitioners' charge for Lack of Substantial Evidence. On May 11, 2009, the Petitioners filed a motion for an extension of time to file their Request. On May 18, 2009, the Commission entered an order granting Petitioners' motion. On June 22, 2009, the Petitioners filed a second motion for an extension of time to file their Request. On July 22, 2009, the Commission entered an order granting the Petitioners' motion. On August 11, 2009, the Petitioners filed this timely Request.

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. On or about April 2007, the Petitioners began leasing an apartment in a building located at 5746 N. Sheridan Road (the "Premises"). The Petitioners' tenancy ran for the period of April 1, 2007, through April 30, 2008.
4. The Petitioners paid the first month's rent. Thereafter, the Petitioners did not pay any rent. On or about July 2008 Popovic asked Pedro Donaldson if the Petitioners intended to pay their rent. Pedro Donaldson stated he had no intention of paying rent. On July 18, 2008, the Landlords issued the Petitioners a five-day Notice of Eviction based on their continued failure to pay rent.
5. The Petitioners contend in Counts A, B, and C that on August 13, 2008, the Landlords attempted to evict them because of their race, and because of Eriko Donaldson's mental disability. Further, in Counts D, E, and F, the Petitioners allege that on September 26, 2008, the Landlords subjected them to discriminatory terms, conditions, privileges, or services and facilities because of their race and Eriko Donaldson's mental disability when the Landlords refused to allow the Petitioners access to the fuse box and meters.
6. The Landlords stated that it did not allow any tenants access to the fuse box room due to the possibility of electrocution.
7. The Petitioners submitted a DVD with their Request that contained various exhibits, described in the Request, together with court documents that are all unrelated to the allegations of the Petitioners' charge.

### ***Conclusion***

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed all counts of the Petitioners' charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D).

The Commission finds no substantial evidence to support the Petitioners' claims of race and disability discrimination. As to Counts A, B, and C, there is no substantial evidence of a *prima facie* case of discrimination because there is no substantial evidence the Petitioners were qualified, ready, willing, and able to continue occupancy of the Premises consistent with the terms and conditions of their lease. It is undisputed that at the time the Landlords issued the Petitioners the Notice of Eviction, the Petitioners had failed to pay rent for several months. Further, there is no evidence in the file that the Landlords allowed non-Black, non-Asian, and non-disabled tenants to reside in the Premises for months on end without demanding payment of rent.

Similarly, as to Counts D, E, and F, there is no evidence in the file to substantiate the Petitioners' claim that they were prevented from accessing the fuse box and meters because of their race or because of a mental disability. The Landlords stated all tenants are prevented from accessing the fuse box and meters as a safety precaution. There is no evidence in the file that the Landlords allowed non-Black, non-Asian, and non-disabled tenants to access the fuse box and meters. Hence there is no substantial evidence the Landlords subjected the Petitioners to discriminatory treatment in this regard.

The documents and the DVD attached to the Request do not provide any basis for the Commission to overturn the Respondent's original determination because they are irrelevant to the original charge currently under review. To the extent the Petitioners attempt to raise new claims of discrimination and retaliation in their Request, the Commission does not have jurisdiction to review new allegations or charges raised for the first time in a request for review. See 775 ILCS 5/8-103.

Accordingly, it is the Commission's decision that the Petitioners have not presented any evidence to show the Respondent's dismissal of their charge was not in accordance with the Act. The Petitioners' Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of the Petitioners' charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, Peter Popovic, and 5746 N. Sheridan, LLC., as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 24<sup>th</sup> day of February 2010.**

Commissioner Sakhawat Hussain

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen